

**Benjamin C. Tiller**  
Office of the Montana State Auditor,  
Commissioner of Securities and Insurance (CSI)  
840 Helena Avenue  
Helena, MT 59601  
(406) 444-2040

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SEP 25 2017  
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STATE AUDITORS OFFICE

Attorney for the CSI

**BEFORE THE MONTANA STATE AUDITOR  
COMMISSIONER OF SECURITIES AND INSURANCE**

IN THE MATTER OF:	)	Case No.: INS-2017-144
CARL L. ARKY,	)	<b>CONSENT AGREEMENT AND</b>
	)	<b>FINAL ORDER</b>
Respondent.	)	

This Consent Agreement (Agreement) and Final Order (Order) are entered into by the Office of the Montana State Auditor, Commissioner of Securities and Insurance (CSI), acting pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101 et seq. (Code), and Carl L. Arky (Respondent).

**RECITALS**

WHEREAS, Respondent was involved in a minor motor vehicle collision on the Montana State University campus on September 10, 2016;

WHEREAS, Respondent submitted to the Montana Risk Management and Tort Defense Division (Risk & Tort) a claim for the damage on September 18, 2017;

WHEREAS, Respondent received \$1,548 from Risk & Tort as payment on that claim;

WHEREAS, Respondent also submitted a claim for the same damage to Farmers Insurance Company on October 25, 2016;

CONSENT AGREEMENT AND FINAL ORDER  
Carl L. Arky

WHEREAS, Respondent misrepresented to Farmers the facts surrounding the loss;

NOW, THEREFORE, in consideration of the mutual undertakings contained in this Agreement, the CSI and Respondent hereby agree to settle this matter pursuant to the following terms and conditions:

**STIPULATIONS AND CONSENTS**

1. Respondent stipulates and agrees to the following:

A. Respondent admits the allegations contained in the Recitals;

B. Within fifteen (15) business days from the execution of this Agreement,

Respondent shall pay:

- a. an administrative penalty to the State of Montana in the amount of five hundred dollars (\$500). § 33-1-317. The penalty must be made payable to the State of Montana and sent to:

Office of the Montana State Auditor  
c/o Lisa Monroe  
840 Helena Avenue  
Helena, MT 59601

- b. restitution to Farmers Insurance Company in the amount of one thousand ninety-eight dollars and eighty cents (\$1,098.80). § 33-1-1211(3). The Restitution must be made payable to:

Farmers Insurance  
ATTN: Robin Prado  
10551 S. Ridgeview  
Olathe, KS 66061

C. With respect to the Recitals, Respondent specifically and affirmatively waives a contested case hearing and his right to appeal under the Montana Administrative

Procedure Act (MAPA), including Title 2, chapter 4, part 7, and elects to resolve this matter on the terms and conditions set forth herein.

D. Respondent fully and forever releases and discharges the CSI from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or not asserted, known or unknown, foreseen or unforeseen, arising out of or related to the Recitals or this Agreement.

2. Both parties to this Agreement stipulate and agree as follows:

- A. The CSI has jurisdiction over the subject matter of this Agreement;
- B. This Agreement resolves the alleged violations set forth in the Recitals;
- C. The CSI warrants and represents that so long as Respondent complies

with the terms of this Agreement, the CSI will not bring any further action against Respondent arising from facts known to the CSI as of the date of the Agreement relating to the Recitals.

D. This Agreement is entered without adjudication of any issue, law, or fact. It is entered solely for the purpose of resolving the CSI's investigation and allegations, and is not intended to be used for any other purpose.

E. The applicable statute of limitations is tolled for two years from the date of execution of this Agreement with regard to the allegations set forth above. In the event Respondent violates the terms of this Agreement at any time before the applicable statute of limitations has run, the CSI reserves the right to seek any additional administrative penalties or further regulatory action.

F. This Agreement constitutes the entire agreement between the parties and no other promises or agreements, either express or implied, have been made by the CSI or

by any member, officer, agent, or representative of the CSI to induce Respondent to enter into this Agreement.

G. This Agreement may not be modified orally, and any subsequent modifications to this Agreement must be mutually agreed upon in writing with the same formality as this agreement to be effective.

H. This Agreement shall be incorporated into and made part of the attached Final Order issued by the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner), herein.

I. The Order will be an order of the Commissioner and is effective upon signing. The CSI has jurisdiction over the enforcement of the Order, and failure to comply with it may constitute separate violations of the Act, as provided in Mont. Code Ann. § 33-1-318, and may result in subsequent legal action by the CSI.

J. This Agreement shall be effective upon signing of the Order.

K. This Agreement and Order are public records under Montana law and as such may not be sealed or otherwise withheld from the public.

DATED this 25<sup>th</sup> day of September, 2017.

**OFFICE OF THE MONTANA STATE  
AUDITOR, COMMISSIONER OF  
SECURITIES AND INSURANCE**

By: 

**BENJAMIN C. TILLER**  
Attorney for the CSI

DATED this 14<sup>th</sup> day of September, 2017.

CARL L. ARKY

Carl L. Arky  
Signature

CARL ARKY  
Printed Name

**FINAL ORDER**

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and § 33-1-101 et seq.,  
and upon review of the foregoing Consent Agreement and good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the Office  
of the Montana State Auditor, Commissioner of Securities and Insurance, and Respondent,  
Carl L. Arky, is adopted as set forth fully herein.

DATED this 25 day of September, 2017.

**MATTHEW M. ROSENDALE, SR.**  
Montana State Auditor  
Commissioner of Securities and Insurance

By: Nancy Butler  
**NANCY BUTLER**  
Deputy State Auditor

cc: Benjamin C. Tiller  
Respondent